

REMARKS

In the Office Action mailed March 4, 2008, claims 33-36, 40-48, and 52-58 were subjected to restriction and election requirement. Claims 33-36, 40, 41, and 53-55 are now pending in the present application. Applicants have canceled claims 42-48, 52, 56-58.

I. Drawing Objection under 37 CFR 1.121(d)

The Office Action objected to the drawings. Applicants have amended the drawing. In view of Applicant's replacement drawings, the Examiner's objection is believed to be rendered moot.

II. Restriction/Election Requirement

The pending claims of the present invention have been restricted as being distinct inventions and an election under 35 USC §121 has been required. Specifically, the claims have been divided as follows: Group I, claims 33-36, 40, 41, and 53-55 drawn to an asphalt surface repair apparatus; Group II, claims 42-46 and 56-58 drawn to an asphalt surface repair apparatus; and Group III, claims 47, 48, and 52 drawn to an asphalt surface repair apparatus. Applicants elect, with traverse, Group I drawn to an asphalt surface repair apparatus. Applicants believe that original claims 33-36, 40, 41, and 53-55 read on the elected Group.

In traversing this Restriction/Election requirement, the Applicants believe that consideration of all of the claims would not impose a serious burden on the Examiner. As recited in the Manual of Patent Examining Procedures, § 803:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Applicants believe that the features shown and described in the present invention, including the claims, are generally related to the same field of art and it would not be a serious burden to the Examiner to search and exam all of the features, as claimed. This is because searching the three apparatuses drawn to an asphalt surface repair, within the classes indicated, does not immediately appear to be overly burdensome. The Examiner suggests that with reference to Group I, the required technical feature of the sensor is not required by Groups II or III. However, Applicants point out to the Examiner

Applicants point out to the Examiner that the feature of the sensor is required in dependent claim 45 of Group II and a sensor is required in independent claim 47 of Group III, therefore, a search does not immediately appear to be overly burdensome. The Examiner suggests that with reference to Group II, the required technical feature of the lance and reel is not required by Groups I or III. However, Applicants point out to the Examiner that the feature of a rejuvenating liquid dispenser is required in independent claim 33 of Group I and a lance and reel is required in independent claim 47 of Group III, therefore a search does not immediately appear to be overly burdensome. The Examiner suggests that with reference to Group III, the required feature of the blanket material is not required by Groups I or II. However, Applicants point out to the Examiner that the feature of the blanket material is required in dependent claim 35 of Group I and a heater blanket is required in independent claim 42 of Group II, therefore, a search does not immediately appear to be overly burdensome.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

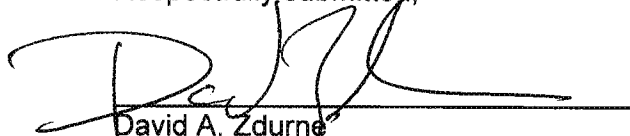
CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

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Respectfully submitted,


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